

## REMARKS

Claims 1-2, 4-15, and 19-20, as drawn to a non-heterocyclic compound according to the general structure (I), were elected for examination.

Group II (Claims 1-15 and 19-20), drawn to a heterocyclic compound according to formula (I), was not elected for examination, nor was Group III (Claims 16-18), drawn to a method of treating a neoplastic disease.

Claims 3, 16, 17, and 18 stand withdrawn from consideration as drawn to a non-elected invention.

Claims 1, 4, 5, 9, 10, 13, 14, 15, and 19 are amended herein and claim 20 is canceled herein without prejudice to the inclusion of deleted subject matter in continuation, continuation-in-parts, or divisional applications. Claims 4, 5, and 9 have also been amended herein to longer depend from withdrawn claim 3. No new subject matter has been entered by way of these amendments.

### **Response to Rejection of Claims 1-2, 4-15, and 19-20 under 35 U.S.C. § 112, second paragraph: indefiniteness**

The Examiner asserts that claims 1 and 19 are indefinite, alleging that the term “substituted” renders the claims indefinite. It is the view of the Examiner that in the absence of the specific moieties intended to effectuate modification by the “substitution” or attachment to the chemical core claimed, the term “substituted” renders the claim indefinite where its use is not specifically articulated by chemical name, structural formula, or written in sufficiently distinct functional language to identify the particular moieties intended as substitutes.

The Examiner does not specifically state that the dependent claims are indefinite, but Applicants is addressing the rejection with that understanding.

Although not necessarily agreeing with the reasoning of the Examiner, in order to expedite prosecution of the application, the specific phrases using the term “substituted” have been deleted from independent claims 1 and 19. Applicants submit that the rejection as to use of the term “substituted” is now moot and request that the rejection be withdrawn.

### **Response to Rejection of Claims 1, 10, 14, and 19 under 35 U.S.C. § 112, second paragraph: indefiniteness**

The Examiner asserts that the term “general” is vague and indefinite and that the specification does not define the or elaborate on the term “general”.

Although not necessarily agreeing with the reasoning of the Examiner, in order to expedite prosecution of the application, the term “general” has been deleted from claims 1, 10, 14, and 19. Applicants submit that the rejection as to use of the term “general” is now moot and request that the rejection be withdrawn.

**Response to Rejection of Claims 1-2, 4-5, and 10 under 35 U.S.C. § 102 (b): anticipation**

i) The Examiner alleges that claims 1-2, 4-5, and 10 are anticipated by Meza-Toledo (Drug Research, 1990, 40:1289-1291), asserting that a compound at page 1290, section 3.2, compound 2, is identical with the claims.

Applicant has amended the claims (1, 4, and 10) by removing the specific alkyl group of R asserted by the Examiner pertaining to the Meza-Toledo 1990 paper, as well as another alkyl group of R, and the number of CH<sub>2</sub> groups in R<sub>2</sub> to address the other anticipation rejections of this set of structures. For example, regarding independent claim 1 where it recited, inter alia, that R is . . . “C<sub>1</sub>-C<sub>12</sub> alkyl”, that has been amended by deleting C<sub>2</sub> and C<sub>7</sub> to instead recite “C<sub>1</sub> alkyl, C<sub>3</sub>-C<sub>6</sub> alky, and C<sub>8</sub>-C<sub>12</sub> alkyl”. Applicants have also amended R<sub>2</sub> in all claims by amending the R<sub>2</sub> constituent “-(CH<sub>2</sub>)<sub>n</sub>CONHR<sub>10</sub>” from having an “n” of either 0, 1, 2, 3, or 4 to instead recite “with the proviso that when R<sub>2</sub> is -(CH<sub>2</sub>)<sub>n</sub>CONHR<sub>10</sub>, n is 3 or 4”. Applicants submit that based on this amendment, as well as the amendments described below, Meza-Toledo (1990) cannot anticipate claims 1, 4, and 10 as amended, or claims 2, and 5, which depend directly or indirectly from claim 1. Applicants respectfully request that the rejection as to Meza-Toledo be withdrawn.

ii) The Examiner alleges that claims 1-2, 4-5, and 10 are anticipated by Meza-Toledo (Drug Research, 1995, 45:756-759), asserting that a compound at page 756, left column at the bottom, is identical with the claims.

Applicants assert that the amendments described above as to Meza-Toledo (1995) apply with equal force here. That is, amending the alkyl group of R by deleting C<sub>2</sub> and C<sub>7</sub>, as well as the other amendments described herein, remove Meza-Toledo (1995) as a reference. Applicants request that the rejection as to these claims be withdrawn.

iii) The Examiner alleges that claims 1-2, 4-5, 10, and 13-15 are anticipated by Brown et al. (J. Med. Chem., 1999, 42:1537-45), asserting that a compound at page 1539, in a middle Table 4 is identical with the claims.

Applicants assert that the amendments described above as to Meza-Toledo (1990 and 1995) apply with equal force here. Applicants have similarly amended claims 13, 14, and 15 in response to the Brown rejection. Therefore, Applicants submit that amending the alkyl group of R by deleting C<sub>2</sub> and C<sub>7</sub>, as well as the other amendments described herein, remove Brown as a reference. Applicants request that the rejection as to these claims (1-2, 4-5, 10, and 13-15) be withdrawn.

iv) The Examiner alleges that claims 1-2, 4-6, and 10 are anticipated by Sandoval et al. (WO 99/41229), citing Figures 1 and 4 and reproducing two non-heterocyclic compounds in the Office Action.

Applicants assert that the amendments described above as to Meza-Toledo (1990 and 1995) and Brown apply with equal force here. That is, amending the alkyl group of R by deleting C<sub>2</sub> and C<sub>7</sub>, amending "n" of the R<sub>2</sub> constituent "-(CH<sub>2</sub>)<sub>n</sub>CONHR<sub>10</sub>," to consisting of just 3 or 4, and not integers ranging from 0-4 as previously claimed, as well as the other amendments described herein, removes Sandoval as a reference. Applicants request that the rejection as to these claims be withdrawn.

v) The Examiner alleges that claims 19-20 are anticipated by Grunewald (Tetrahedron Letters, 1980, 21:13:1219-1220), citing the abstract and presenting a compound from the abstract.

Applicants have canceled claim 20 herein, therefore, the rejection as to claim 20 is now moot. Applicants request that the rejection as to claim 20 be withdrawn.

Applicants have amended claim 19 by deleting "general" and by deleting the phrase "or R<sub>14</sub> and R<sub>15</sub> taken together with the atoms to which they are attached form an optionally substituted C<sub>5</sub>-C<sub>6</sub> aryl." Deletion of this phrase removes the possibility of a ring structure as well as the rejected term "substituted". Because R<sub>14</sub> and R<sub>15</sub> can no longer form a ring structure,

Grunewald cannot anticipate amended claim 19. Therefore, Applicants request that the rejection as to Grunewald be withdrawn.

**CONCLUSION**

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (434) 243-6103.

Respectfully submitted,

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